

OCA 2924-88



CENTRAL INTELLIGENCE AGENCY

Office of Congressional Affairs

Washington, D.C. 20505

Telephone: 482-6136

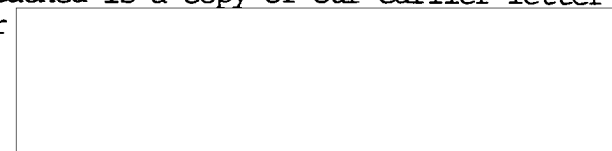
31 AUG 1988

TO: Mr. Mike Wermuth
Deputy Assistant Attorney General
Department of Justice

Dear Mr. Wermuth:

Attached is a draft views letter on the Alexander "Anti-Stonewalling Amendment" for signature by the Attorney General and the Director of Central Intelligence. It was prepared in response to David Addington's memorandum on the subject.

Also attached is a copy of our earlier letter on the matter



Legislation Division
Office of Congressional Affairs

cc: David Addington
Deputy Assistant to the President
for Legislative Affairs

FORM 2-86 **1533** OBSOLETE PREVIOUS EDITIONS.

(40)

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DRAFT

The Honorable Bill Alexander
House of Representatives
Washington, D.C. 20515

Dear Mr. Alexander:

We write to advise you of the Administration's strong opposition to the "Anti-Stonewalling Act of 1988" amendment (House Report No. 100-861, pp. 54-55) which you propose to offer to the omnibus, anti-drug legislation.

We believe that legislation is not the solution to the problems you perceive in how information about international drug trafficking is disseminated within the Executive Branch and to the Congress. We, instead, solicit Congressional assistance in resolving any such problems through other, less drastic means.

Within the Executive Branch, information on this subject is already disseminated to law enforcement agencies by other agencies through a variety of long-standing, carefully crafted, administrative mechanisms. For these, the amendment would substitute an inflexible statutory scheme, keyed on the vague, and thus potentially troublesome, term "illegal international drug activities." The protection of sensitive information could only be achieved through a cumbersome procedure necessitating the involvement of an agency head and the President. Moreover, the ultimate result of this statutory scheme would be to subordinate the President's constitutional powers and duties to conduct our foreign relations and national defense to his powers and duties as chief law enforcement officer, a result which raises significant constitutional issues.

The amendment also represents a major restructuring of the way in which Executive Branch information in this area is provided to the Congress. To existing Congressional oversight mechanisms in this area, the amendment would add a provision

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giving any committee of the Congress and the General Accounting Office (GAO) the right to obtain such information on request. In fact, GAO's right appears superior to a committee's.

This would be a significant departure from Executive-Legislative Branch relations in this area, especially with respect to intelligence information, and raises significant constitutional issues. Moreover, with respect to intelligence information, it would implicitly breach the understanding between the Branches that intelligence oversight will be confined to the intelligence committees.

The mechanism for protecting information from disclosure in connection with Congressional requests is not satisfactory. It is both cumbersome and contains within it the seeds of future problems similar to those currently facing the Branches with respect to notification of intelligence activities: the form and content of the notification and the President's countervailing constitutional authorities. As such, the mechanism would institutionalize and sharpen future conflicts, rather than dampen them.

The means by which sensitive information of this nature is disseminated within our government and used in the fight against drugs poses some very difficult issues. Legitimate albeit competing interests are involved and problems have occurred. While we are glad to work with the Congress, we believe legislation of this sort will not help and, in fact, could be counterproductive.

We appreciate the opportunity to provide you with our views on these important questions.

The Office of Management and Budget advises that the submission of this report is in accord with the program of the President.

A copy of this letter is being provided to Representatives Foley, Michel, Stokes, and Hyde.

Sincerely yours,

William H. Webster
Director of Central Intelligence

Richard H. Thornburgh
Attorney General

Central Intelligence Agency



Washington, D.C. 20505

25 August 1988
OCA 2863-88

Mr. James Murr
Assistant Director, Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

I write to advise you of the opposition of the Central Intelligence Agency to the "Anti-Stonewalling Act of 1988" (House Report No. 100-861, pp. 54-55), an amendment to be offered by Representative Alexander to the omnibus, anti-drug legislation that will probably be considered by the House of Representatives when it returns to session in September.

The amendment would require any Executive Branch employee obtaining information about "illegal foreign drug activities" to forward such information promptly to his agency head. The agency head, in turn, would be required to furnish it to Presidentially-designated law enforcement agencies and, upon request, to any committee of Congress and/or the General Accounting Office (GAO). Information could be withheld from the Presidentially-designated agencies under certain limited circumstances but only by the agency head on a non-delegable basis and only after notification to the President. The information would have to be disclosed, upon request, to any committee of the Congress and to the GAO. The President could withhold the information but would have to report to the Congress on his reasons therefor. GAO could sue to obtain the information in accordance with the provisions of 31 U.S.C. §716 et seq.

Our reasons for opposing this amendment are as follows:

Congressional Reporting Requirements

Our primary concern is with those portions of the amendment dealing with the Congress. Most important, the key phrase "information about illegal foreign drug activities" could be